

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DENNIS S. HUNTER,

Defendant.

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Case No. 3:15cr031 (1)

JUDGE WALTER H. RICE

DECISION AND ENTRY OVERRULING DEFENDANT'S MOTION TO
DISMISS THE INDICTMENT PURSUANT TO 18 U.S.C. §3282(a) (DOC. #32);
MOTION FOR EVIDENTIARY HEARING OVERRULED, WITHOUT
PREJUDICE TO RENEWAL, AS PREMATURE

The Motion of the Defendant, seeking an order of the Court dismissing the Indictment against him due to the failure of the Government to file the instant action within five years following the commission of the crime, said Motion filed pursuant to 18 U.S.C. §3282(a) (Doc. #32), is deemed by this Court to be not well taken and same is, therefore, OVERRULED in its entirety.

Herein, the face of the Indictment establishes that same was filed within the applicable five year statute of limitations. The conspiracy alleged clearly extended into the limitations period. Given that the face of the Indictment renders this Motion to Dismiss not well taken, the issue of whether, in fact, the conspiracy did or did not exist and, if so, whether it extended into the five year limitations period, is, ultimately, one for the jury, not to be determined as a matter

of fact prior to trial. Accordingly, the Defendant's alternative Motion for an Evidentiary Hearing is OVERRULED, as premature, subject to renewal at the conclusion of the Government's case in chief at trial.

WHEREFORE, based upon the aforesaid and, further, based upon the reasoning and citations of authority set forth in the Government's Memorandum in Opposition (Doc. #35) to the Defendant's Motion to Dismiss the Indictment on statute of limitations grounds, said Motion is deemed not well taken and is, therefore, OVERRULED in its entirety.

December 15, 2015



WALTER H. RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Counsel of record

Courtesy copy to:

Richard Goldberg, Esq.